

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

SHIRLEY L. PHELPS-ROPER,	)	
	)	
Plaintiffs	)	
	)	
v.	)	Case No. 2:06-cv-04156-FJG
	)	
CHRIS KOSTER, et al.	)	
	)	
Defendants.	)	

**Plaintiff's Additional Separate Proposed Jury Instruction**

Pursuant to the Court's Fourth Amended Scheduling Order, Plaintiff filed proposed jury instructions on May 3, 2010. (Doc. # 225). On May 6, 2010, the Court entered a Fifth Amended Scheduling Order establishing a due date of May 7, 2010 by which Plaintiff must file proposed jury instructions. Plaintiff now submits one additional proposed jury instruction while requesting leave to supplement her proposed instructions as appropriate once this Court has ruled on the pending motions for summary judgment:

No. \_\_\_\_

I instruct you as a matter of law that, in order for the freedoms protected by the First Amendment to have adequate breathing space, citizens must tolerate insulting and outrageous speech. There can be no “dignity” or “outrageousness” standard that would allow speech to be punished. Speech cannot be punished because it may have an adverse emotional impact on the audience.

Citations:     *Boos v. Barry*, 485 U.S. 312, 322 (1988)

*Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 56 (1988)

Respectfully submitted,

/s/ Anthony E. Rothert  
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ATTORNEYS FOR PLAINTIFF

### **CERTIFICATE OF SERVICE**

I hereby certify that on May 6, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and a copy was made available electronically to the following electronic filing participants:

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